IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CONTEMPT PETITION NO.85 OF 2007

IN

NOTICE OF MOTION NO.347 OF 2003

IN

SUIT NO.408 OF 2003

Ramanlal Bhikaji Shah alias Mehta .. Petitioner

Versus

1. Priya Naresh Athavale
2. Salim Samshi .. Original Defendant Nos.1&2.

And

Ibrahim Jusab Sopariwala & Ors. .. Respondents

Mr.Birendra Saraf i/b.Kishore Thakordas & Co. for petitioner.

Ms.Baiga i/b.S.I.Memon for respondent Nos.3 and 4.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 3rd October, 2007.

P.C.:

1. The petitioner who is the original plaintiff has already moved this Court after the subsequent developments and brought to the notice of the Court that its injunction order in the suit has been violated. The Court taking cognizance of his grievance and being prima-facie, satisfied, has appointed the Court Receiver. While doing so the Court has observed that some of the parties to the transaction were not aware of the order of injunction.

2. It is in these circumstances and when it would be necessary to go further into the transaction and probe whether the same really amounts to transfer or disposal of the suit property, this is not a fit case for exercising contempt jurisdiction. Contempt petition is not the remedy of the plaintiff and in any event he has availed of a remedy available to him in law. It will be open for him to amend the pleadings and claim such reliefs as are permissible in law.

3. Contempt petition is dismissed.

(S.C.Dharmadhikari, J.)